HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 29792 of 1998

DATED: 30-3-2007

Between:

M/s Maniraja Constructions, rep. by its
Managing Partner, Sri V. Venkateswara Rao

…Petitioner

and

The Municipal Corporation of Hyderabad, rep. by its
Commissioner, Hyderabad and another

…Respondents

HONOURABLE SRI JUSTICE R.SUBHASH REDDY

W.P.No. 29792 of 1998

Oral Order:

In this writ petition, the writ petitioner seeks a direction by way of a writ of Mandamus to declare the action of the respondents in proposing to demolish and interfere with the structures in premises bearing Survey Nos. 371, 372, 373, 376, 377 and 379 known as V.B.G. Gardens, situated at Navodaya Colony, Gudimalkapur, Mehdipatnam, Hyderabad as illegal, arbitrary and to further direct regularization of the structures, which are constructed in deviation to the sanctioned plan, as per G.O.Ms.No.419, Municipal Administration and Urban Development (W1) Department, dated 30-7-1998.

The petitioner has obtained permission for construction of stilt for parking plus 4 upper floors for residential purpose vide permit No. 327/70/92 dated 3-6-1992. Though the petitioner has further applied for permission for construction of 5th floor over and above the already permitted stilt plus 4 upper floors, without there being any permission granted by the Municipal Corporation, as provided under the building bye-laws, the petitioner made constructions. Thereafter, it is submitted that the petitioner has applied for regularization of the deviated/unauthorized constructions, in view of the orders notified by the Government in G.O.Ms.No.419, dated 30-7-1998.

It is the case of the petitioner that when his application was pending consideration for regularization, no action can be taken for demolition of the alleged deviated constructions, which were made contrary to the sanctioned plan.

In the counter-affidavit filed by the respondents, it is stated that as per G.O.Ms.No.419, dated 30-7-1998 they have notified the cut off date i.e., 30-6-1998 even to consider the application for regularization of the unauthorized constructions. But however, in this case, the petitioner had made constructions after the said notified cut off date i.e., 30-6-1998. In any event, the very validity of the issuance of G.O.Ms.No.419 issued by the Government came to be considered before a Division Bench of this Court in W.P.No.25011 of 1998 and this Court has quashed the said G.O. itself.

Inasmuch as it is stated that the constructions were made subsequent to the notified date and further in view of the fact that the G.O. itself is quashed by this Court in W.P.No.25011 of 1998, no direction can be given to regularize the constructions as per G.O.Ms.No.419. However, since subsequently there is an enactment, namely, the Andhra Pradesh Regularisation of the unauthorized constructions in Municipal Corporations, Municipalities and Urban Development Authorities Act, 2003, under which the respondents are empowered to regularize the unauthorized constructions, this Court disposes of the writ petition keeping open for the affected parties to seek redressal of their grievance under the provisions of the said Act by making necessary application.

With the above observation, the writ petition is disposed of. There shall be no order as to costs.

R.SUBHASH REDDY, J

30th March, 2007
GRR